



NATIONAL POTATO COUNCIL

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VIA E-MAIL

EDI Comments
AMS, F&V, PACA BRANCH
U.S. Department of Agriculture
1400 Independence Avenue, SW
Room 2095 South Building
Washington, D.C. 20250-0242

Re: Preserving PACA trust protection when using EDI Invoices

The National Potato Council ("NPC") is the only trade association representing commercial potato growers in 50 states. Our growers produce both seed potatoes and potatoes for consumption in a variety of forms. Annual production is estimated at 437,888,000 cwt. with a farm value of \$3.2 billion. Total value is substantially increased through processing. The potato crop clearly has a positive impact on the U.S. economy.

Our growers support PACA and utilize its provisions to protect their sales, in particular the trust protection afforded by PACA. We are therefore pleased that the USDA has recognized a potential loophole in securing and preserving PACA trust protection when sellers use Electronic Data Interchange ("EDI") invoicing.¹ The ANPR cites a number of examples of areas where, due to the methods used to process electronic invoices, PACA trust protection might be vulnerable, if not lost altogether. In order to avoid potentially significant financial losses to our growers, the NPC strongly urges the Department to take immediate action to revise relevant PACA regulations to ensure that PACA trust protection is not jeopardized by the EDI invoicing process.

A new regulation will provide greater certainty that PACA trust rights remain intact when invoicing electronically. In substance, a new regulation need only provide an agreed mechanism for the seller to notify the buyer of its intent to preserve its trust rights. It is suggested that the Department prepare a new regulation to address this issue and publish it for comment. Any new regulation should insure that current trust protection language included in any electronic invoice be considered as accepted whether or not the customer or the customer's electronic exchange agent elects to receive, relay or download such language, and that all of the sellers electronic invoices to customers on or after the date shall be subject to such PACA trust protections.

¹ As you know, often the seller is compelled to use EDI invoicing at the buyer's insistence.

The NPC looks forward to reviewing and commenting on the Departments proposed regulation which we would hope is published as soon as possible.

Thank you for your consideration. Please feel free to contact me to discuss the matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "John Keeling". The signature is fluid and cursive, with the first name "John" and last name "Keeling" clearly distinguishable.

John Keeling
CEO/Executive Vice President